

CHAPTER VI

OF OFFENCES AGAINST THE STATE

121. Waging, or attempting to wage war, or abetting waging of war, against the Government of India.- Whoever, wages war against the ¹[Government of India], or attempts to wage such war, or abets the waging of such war, shall be punished with death, or ²[imprisonment for life] ³[and shall also be liable to fine].

⁴[Illustration]

⁵[***] A joins an insurrection against the ⁶[Government of India]. A has committed the offence defined in this section.

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1. 1. Subs. by the A.O 1950, for "Queen".
 2. 2. Subs. by Act 26 of 1955, sec 117 and Sch., for "transportation for life" (w.e.f.1-1-1956).
 3. 3. Subs. by Act 16 of 1921, sec 2 for "and shall forfeit all his property".
 4. 4. Subs. by Act 36 of 1957, sec 3 and Sch. II, for "Illustrations".
 5. 5. The brackets and letter "(a)" omitted by Act 36 of 1957, sec 3 and Sch. II.
 6. 6. Subs. by the A.O. 1950, for "Queen".

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CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life, or imprisonment for 10 years and fine- Cognizable- Non-bailable- Triable by Court of Session- Non- compoundable.

122. Collecting arms, etc ., with intention of waging war against the Government of India.- Whoever collects men, arms or ammunition or otherwise prepares to wage war with the intention of either waging or being prepared to war against the ¹[Government of India] , shall be punished with ²[imprisonment for life] or imprisonment of either description for a term not exceeding ten years, ³[and shall also be liable to fine].

Punishment- Imprisonment for life, or imprisonment for 10 years and fine- Cognizable – Non-bailable- Triable by Court of Session – Non- compoundable.

123. Concealing with intent to facilitate design to wage war.- Whoever by any act, or by any illegal omission, conceals the existence of a design to wage war against the ³[Government of India],intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate , the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

15. Ins. by Act 16 of 1921, sec. 3, for “and shall forfeit all his property”.

1. 1. Subs. by the A.O 1950, for “Governor General”.
2. 2. Subs. by Act 3 of 1951,sec 3 and Sch., for “Governor”
3. 3. The words “or Rajpramukh” omitted by the A.O.1956.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 10 years and fine- Cognizable – Non-bailable- Triable by Court of Session – Non-compoundable.

124. Assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power.- Whoever, with the intention of including if including or compelling the ¹[President] of India, or the ²[Government³[***]] of any ⁴[State],⁵[***] ⁶[***] ⁷[***] to exercise or refrain from exercising in any manner any of the lawful powers of such ⁸[President or ²[Governor³[***]]],

assault or wrongfully restrains, or attempts wrongfully to restrain, or overawes, by means of criminal force or the show of criminal force, or attempts so to overawe, such ⁸[President or ²[Governor ³[***]]], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

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1. 1. Subs. by the A.O 1950, for "Governor General".
 2. 2. Subs by Act 3 of 1951, sec. 3 and Sch., for "Governor".
 3. 3. The words "or Rajpramukh" omitted by the A.O.1956.
 4. 4. Subs. by the A.O. 1950, for " Province" which had been subs. by the A.O 1937, for "Presidency".
 5. 5. The words "or a Lieutenant-Governor" omitted by the A.O. 1937.
 6. 6. The words "or a Member of the Council of the Governor General of India " omitted by
 7. 7. The words "or of the Council or any Presidency" omitted by the A.O. 1937.
 8. 8. The original words " Governor General, Governor, Lieutenant –Governor or Member of Council" have successful been amended by the A.O. 1937, the A.O. 1948 and the A.O. 1937, the A.O. 1948 and the A.O. 1950 to read as above.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life, or imprisonment for 7 years and fine- Cognizable – Non-bailable –Triable by Court of Session- Non-compoundable.

⁹**[124A. Sedition.-** Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, ¹⁰[***] the Government established by law in 11[India]. 12[***] shall be punished with 13[imprisonment for life], to which fine by law in 11[India], 12[***] shall be punished with 13[imprisonment for life] , to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added , or with fine.

Explanation 1.- The expression "disaffection" includes disloyalty and all fallings of enmity.

9. 9. Subs. by Act 4 of 1989, sec. 4 for the original section 124A which had been ins. by Act 27 of 1870, sec. 5.

10. 10. The words " Her Majesty or" omitted by the A.O. 1950. The words " or the Crown Representative ins. after the word "Majesty" by the A.O 1937 were omitted by the A.O. 1948.

11. 11. The words "British India" have successively been subs. by the A.O. 1948, the A.O. 1950 and Act 3 of 1951, sec.3 and Sch. To read as above.

12. 12. The words " or British India" ins. by the A.O. 1937 omitted by the A.O.1948.

13. 13. Subs. by Act 26 of 1955, sec. 177 and Sch., for " transportation for life or any shorter term" (w.e.f 1-1-1956).

Explanation 2.- Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means , without exciting or attempting to excite hatred , contempt or disaffection, do not constitute an offence under this section.

Explanation 3.- Comments expressing disapprobation of the administrative or other action of attempting to excite haltered, contempt or disaffection, do not constitute an offence under this section .

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life and fine, or life and fine, or imprisonment for 3 years and fine, or fine- Cognizable- Non- bailable-Triable by Court of Session-Non-compoundable.

COMMENTS

- (i) The offence of sedition under section 124A is the doing of certain acts which would bring the Government established by law in India into hatred or contempt, or create disaffection against it; *Bilal Ahmed Kaloo v. State of Andhra Pradesh*, (1997) Supreme Today 127.
- (ii) Cassettes were heard by accused of speech of Sant Jarnail Singh Bhinderwale, held no commission of offence is said to be made out; *Balbir Singh v. State of Punjab*, 1999 (5) SCC 682 ; 1999 SCC (Cr)1030.

125. Waging war against any Asiatic power in alliance with the Government of India.- Whoever wages war against the Government of any Asiatic Power in alliance or at peace with the 1[Government of India] or attempts to wage such war, or abets the waging of such war, shall be punished with 2[imprisonment for life],

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- 1. 1. Subs. by the A.O. 1950, for "Queen"
 - 2. Subs. by Act 26 of 1955, sec.117 and Sch., for "transportation for life"(w.e.f.1-1-1956)

to which fine may be added, or with imprisonment of either description for a term which may extend to seven years, to which fine may be added, or with fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life, or imprisonment for 7 years and fine- Cognizable – Non-bailable –Triable by Court of Session- Non-compoundable.

126. Committing depredation on territories of power at peace with the Government of India.- Whoever commits depredation, or makes preparation to commit depredation, on the territories of any power in alliance or at peace with the 1[Government of India], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used or intended to be used in committing such depredation, or acquired by such depredation.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life and fine, or life and fine, or imprisonment for 7 years and fine, or fine- Cognizable- Non- bailable-Triable by Court of Session-Non-compoundable.

127. Receiving property taken by war on depredation mentioned in sections 125 and 126. Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in sections 125 and 126, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life and fine, or life and fine, or imprisonment for 7 years and fine, or fine- Cognizable- Non- bailable-Triable by Court of Session-Non-compoundable.

128. Public servant voluntarily allowing prisoner of State or war to escape - Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with 1[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life and fine, or life and fine, or imprisonment for 10 Years and fine, or fine- Cognizable- Non- bailable-Triable by Court of Session-Non-compoundable.

129. Public servant negligently suffering such prisoner to escape.- Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Simple Imprisonment for 3years and fine- Cognizable- Non- bailable-Triable by Court or Session- Non- compoundable.

130 Aiding escape of , rescuing or harbouring such prisoner.- Whoever knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to offer any resistance to the recapture of such prisoner, shall be punished with ¹[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

1. 1. Subs. by Act 26 of 1955, sec. 117 and such., for "transportation for life"(w.e.f.1-1-1956)

Explanation.- A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in ²[India], is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life or imprisonment for 10 Years and fine- Cognizable- Non-bailable-Triable by Court or Session- Non-compoundable.